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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,788

06/10/2005

Matthew Francis

MERCK-3035

4313

23599 7590 04/18/2007
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EXAMINER

WU, SHEAN CHIU

ART UNIT

PAPER NUMBER

1756

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/538,788

Applicant(s)

FRANCIS ET AL.

Examiner

Shean C. Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-26 and 28-43 is/are allowed.
- 6) ☒ Claim(s) 27 and 44 is/are rejected.
- 7) ☒ Claim(s) 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

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DETAILED ACTION

Specification

1. The section "BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWINGS" is missing in the specification.

Claim Rejections - 35 USC § 112

2. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The formula II does not have an antecedent basis.

3. Claim 45 is objected to because of the following informalities:

The notation "Z21" should be changed to -- Z²¹ -- to correct a typographical error.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacob et al. (US 20020086120).

Jacob discloses the reference liquid crystal displays, in particular STN display, with low addressing voltages and low to moderate multiplex ratios comprise liquid crystal medium having a high dielectric anisotropy and with a relatively broad operating temperature range. The reference formula I (ME core) read on the present formulae II and VIII, respectively. The reference formula HP reads on the present formula I (see page 12). The reference formula CBC-nm and formula CBC-nm.F read on the present formula IIID and IIIE (see page 13).

The reference differs from the claimed medium in that the claimed medium is not exemplified by the reference; however, the closest example 24 to the present invention comprises the compounds below

ME2N.F	8.0
ME3N.F	8.0
ME4N.F	11.0
ME5N.F	10.0
PCH-3	20.0
CCG-V-F	11.0
CCP-V-1	9.0
CPTP-302	2.0
D-302FF	2.0
CBC-33	5.0
CBC-33F	4.0
CCPC-34	5.0
CCPC-34	5.0
Σ	100.0

The example 24 comprises 37% of ME core and 9% of CBC-nm and CBC-nmF, which reads on the present formula VIII, IIID and IIIE, respectively. The reference example differs only that the compound of the present formula II is not exemplified in the reference. Because the reference formula I (with a alkyl or alkenyl group at left wing) can

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read on the present formula VIII and II, it would have been obvious to those skilled in the art to utilize the compound of the reference formula I with an alkenyl group at left wing to substitute for the compounds of formula VIII to arrive at the claimed medium.

Allowable Subject Matter

6. Claims 17-26 and 28-43 are allowed.

Response to Arguments

7. Applicant's arguments filed 1/29/07 with respect to claims 17-43 have been fully considered and are persuasive. The rejections over 112, WO 2001/40853 in view of Jacob et al. in the previous Office action have been withdrawn. However, the rejection over Jacob in Claim 44 is still maintained. Applicants argued that the reference mixtures having compounds of the generic "EPCH" is an error. Applicant's attention is directed to compounds of CBC-nm and CBC-nmF. See the section above for explanation.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C. Wu whose telephone number is 571-272-1393. The examiner can normally be reached on 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Shean C. Wu
Primary Examiner
Art Unit 1756

scw